THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5972 OF 2006

Between:

P.Krishna, Proprietor,
M/s Krishna Coir Rope Industries,
G.V.Satram, Maidukur.

… Petitioner

And:

1. Andhra Pradesh State Finance Corporation,
   Rep. by its Branch Manager, Cuddapah and
   Another.

… Respondent

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ORDER:

The writ petition is filed questioning the sale publication in the daily news paper inviting tender-cum-bids in respect of sale of the land and building of M/s Krishna Coil Rope Industries, G.V.Satram, Maidukur, and for a direction to the 1st respondent to stop the sale proceedings.

The petitioner obtained a loan from the 1st respondent for establishing a coir rope industry. The respondent sanctioned

Rs. 3,33,491/- and the District Collector, Kadapa, released Rs.50,000/- under an existing scheme to enable the petitioner to establish the industry. The petitioner claims to have invested Rs.75,000/- of his own for this purpose. The petitioner purchased the machinery for establishing the industry from M/s Shakthi Engineering Works, Pollachi, as M / s Shakthi Engineering Works was enumerated in the approved list of machinery manufacturers in respect of coir industry by the 1st respondent. According to the petitioner the machinery did not function efficiently ever since the installation. The petitioner also filed a consumer CD No.5/93 against M/s Shakthi Engineering Works, which was disposed of on 25.6.1995 granting a relief of Rs.3,07,632/- being the value of the machinery together with interest from 4.4.1992 till the date of realization. The petitioner was also awarded Rs.50,000/- towards damages for the loss of business. As against the said award the aggrieved persons preferred an appeal No.415/95 before the National Consumer Forum. According to the petitioner the appeal was disposed of on 8.8.2000 giving liberty to the petitioner to file proceedings before the appropriate forum. Thereupon the petitioner filed OS No. 29 of 2001 before the District Judge, Kadapa against M/s Shakthi Engineering Works and its Managing Partner as an indigent person and in *forma pauperis* claiming Rs. 35,94,856/- together with interest at 18% p.a. from the date of the suit till realization, towards the loss and damages suffered on account of the mal-functioning machinery supplied by the defendant in the suit. The suit is said to be pending.

According to the petitioner since M/s Shakthi Engineering Works was one of the manufacturers approved by the 1st respondent and as the petitioner's default in paying the loan installments to the 1st respondent was only on account of

faulty machinery supplied by the said firm and as the petitioner is in considerable financial distress on account of failed machinery, the 1st respondent cannot proceed against the petitioner, is the premise on which this writ petition is filed.

The sale proceedings are initiated u/Sec. 29 of the AP State Finance Corporation Act, 1951. The petitioner admittedly obtained a loan from the respondent No.1 and defaulted. The petitioner neither pleads nor establishes at the stage of admission hearing that the he is relieved of his obligation to repay the loan amount on account of mal-functioning of the machinery, under any of the terms and conditions of the loan agreement between himself and the 1st respondent. The entire premise on the basis of which the writ petition is filed is misconceived. There are no merits and the writ petition is accordingly dismissed at the stage of admission. No order as to costs.

Dated: ----------

Pvsn Justice G. Raghuram